

From the Office of:

Forest County Zoning
200 East Madison Street
Crandon, Wisconsin 54520
715-478-3893

December 31st, 2003

To: Toni Herkert
Shoreland Management Team leader
P.O. Box 7921
Madison, Wisconsin 53707-7921



Re: Nr 115 Comments

Ms. Herkert,

I enclosed comment forms were collected from private citizens and zoning administrators from across the State that do not believe it is in the public's best interest to re-write NR 115.

Forest and Oneida Counties have passed resolutions against the department proposed re-write. The current rule may be thirty years old but is a testament to the art of writing legislation. The flexibility promised by a rewrite is already contained in the current NR 115. How we (the counties) handle nonconforming, setback averaging and administrative procedure is dictated by the circumstance of local soil, terrain and social structure. The problems presented as argument for change are weak and beset with error.

As an administrator, I find the call for social warfare at the lakes edge appalling. Your targeting of specific social and economic groups to lead the charge for re-write has brought nothing but vigilantism among previously harmonious lake side neighborhoods. Our Lake Associations have experienced a drop in membership because of unfounded accusations of environmental degradation and political wrangling. When this is over how will you handle riparian owners that have variances to your new rules?

Sincerely,

Pam LaBine, Forest County Zoning Administrator, NR 115 Committee Member

Copy To: Lorraine Seratti
John Gard
Mary Iazich
Joseph Leibham
Judith Robson
Tim Carpenter
Robert Welch
Alberta Darling

XVI. DOCUMENTATION FOR THE PUBLIC RECORD

Comments from the listening sessions will be accepted until December 31, 2003. Comments can be emailed to Toni Herkert, Shoreland Management Team Leader at Toni.Herkert@dnr.state.wi.us or comments can be mailed to her at DNR WT/2, Box 7921, Madison, WI 53707-7921. If you have questions, Toni can be contacted at (608) 266-0161. More detailed information on the Shoreland Management Program revision is available at: www.dnr.state.wi.us/org/water/wm/dsfm/shore/news.htm

If you would like your comments to be part of the public record for the NR115 rule revision, please, at a minimum, provide your name. The remaining information is voluntary. Please print legibly.

Date: 12/30/03

Name: Brent Lambie Brent Lambie

Address: W9333 Rds New London WI

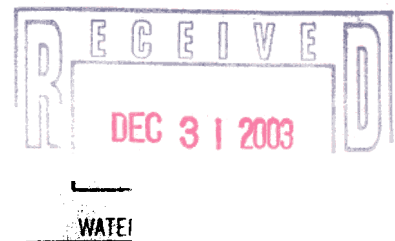
Phone: (920) 757-6889

Email: ~~non~~ ~~blambie~~ Blambie-1921@aol.com

Would you like to receive email updates about the status of the NR 115 revision process?

☒ Yes ☐ No

cause I like fishing on floating rafts I think
it is a very effective way of fishing on the
river and they should be allowed for yrs to come
and exempt from NR115



Brent Lambie

Wagner, Carmen (DNR)

From: thomas langley [tlgas@hotmail.com]
Sent: Wednesday, December 31, 2003 3:10 PM
To: Herkert, Toni
Subject: NR115

I am not in support of the DNR writing statewide zoning ordinances. I believe the county's should be responsible.

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18 November 2003

Mr. Greg Breese
Department of Natural Resources
P.O. Box 4001
Eau Claire, WI 54702-4001



Re: Lakeshore Zoning

Dear Mr. Breese;

I understand there was a hearing on Thursday afternoon, 13 November to discuss planning and zoning efforts for Wisconsin's lakes. I could not attend because I was out of town.

I strongly support lakeshore zoning that would protect our lakes and streams and will restrict dense development and "urbanization" of our lakes.

Wisconsin's lakes are a precious resource. They were thousands of years in the making, but we can lose their clear water in a very short time.

Our lakes belong to all citizens not just to those, such as me, who own lakefront property. Even if we only concern ourselves with owners of lakefront property, we should recognize that the value of our property is directly related to water quality.

I am sure you are hearing objections from real estate brokers and developers and those simply opposed to regulation. But, proper regulation of lakeshore development is a critical component of maintaining water quality in our lakes, and we need act before it is too late.

Thank you for considering my opinions

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian F. Larson", with a long horizontal line extending to the right.

Brian F. Larson
215 Roosevelt Avenue
Eau Claire, WI 54701

Long Lake Preservation Association
PO Box 336 Birchwood WI 54817

December 29, 2003

Our organization has received approximately \$200,000 in state funds in the eleven years of our existence. This has come in the form of water testing, lake management and lake improvement grants. Those funds along with countless volunteer hours have been spent protecting the water quality of our lake and the ecosystems of our watershed.

Our watershed, which is the majority of Birchwood, Long Lake and Madge townships, represents nearly one quarter of all the property taxes collected in Washburn County. Our newsletter is mailed to approximately 1,100 stakeholders in the Long Lake watershed. Over 470 households are dues paying members of our association.

Before addressing the NR115 proposals individually, we would like to express general concern about the enforcement policy of the DNR. We are aware of a number of instances where a clear, significant shoreland violation was reported to the DNR and/or the County and no action was taken. We realize that the DNR and county Zoning work together on enforcement matters. But the DNR is the principal enforcement agency for shoreland violations. The DNR should take the enforcement initiative when the county does not completely or adequately enforce shoreland regulations because of misinterpretation of the standards, reluctance to enforce, or lack of resources.

We offer the following comments on the NR115 Proposals:

I. Shoreland Buffers

The division of the shoreland buffer into a primary and secondary buffer is a good concept. We support the clarification of the viewing and access corridor definition, and the new unambiguous provisions relating to vegetative removal and maintenance.

We support **Proposal A** for **Buffer Depth**. A 50-foot primary buffer and a 25-foot secondary buffer combination would significantly improve the protection of the water. We could support a 35-foot primary buffer, **Proposal B**, in light of this nonconforming structure problem, *if the vegetation restrictions on the primary buffer are completely and rigorously enforced and current inappropriate buffers are restored whenever possible.*

We support **Proposal A** for **Size of the VAC for Single-Family and Duplex Residential properties**. A VAC of 30% of water frontage, not to exceed 30 feet wide is adequate. It is our opinion that a VAC should be left as natural as possible maximizing filtration of runoff and providing reasonable screening of structures from the water.

II. Ordinary High Water Mark (OHWM) Setbacks

We support **Proposal A** for **Boathouses**.

III. Nonconforming Structures

We support the proposals as stated.

We support **Proposal A** for **Minimum Size for Expansion**.

We support **Proposal A** for **Total Size of Structure**

We support **Proposal A** for **Structures in More than One Buffer Zone**.

We support **Proposal A** for the definition "Major Reconstruction".

IV. Minimum Lot Size--Single Family Homes, Duplexes and Commercial Development

We support **Proposal A** for **Minimum Size for New Lots**. There is no reason to distinguish between sewer and unsewered lots.

We support **Proposal A** for **Minimum Buildable Area**. In addition to wetlands and floodways, other topographic characteristics should be considered, such as steep slopes.

V. Minimum Lot Size—Multiple Family Developments, Hotels, Motels, and Resorts

The LLPA applauds the DNR for addressing these high-density, high-activity areas. We strongly support the concept for defining the densities permitted under this provision.

VI. Lot Size Reduction for Conservation Development

We support the concept of Conservation Developments as outlined in the proposals with a few reservations:

We would suggest increasing the 40% conservation set aside and support 10,000 square feet of single-family dwellings.

The location of the dwelling sites should be restricted. If the smaller lots allowed under a Conservation Development are all put as close to the water as allowed by the setback requirement and the set aside land all contained in back lots, the density of dwellings at the OHWM setback would be significantly increased relative to single-family dwellings. In such a case, the public waters would, in fact, suffer rather than benefit from this type of development. We support not including the buffer areas in the conservation set aside.

VII. OHWM Setback Reductions and Nonconforming Lot Provisions

The concept of providing some relief to owners of small, noncompliant lots is supported. We strongly support the requirement that nonconforming or substandard lots be combined with the adjoining property if both have the same owners. We would like to see this concept extended to substandard lots that already have structures—most assuredly, nonconforming—located on them. A nonconforming lot with a structure must be combined with the adjoining property if both have the same owner before any major reconstruction be permitted on the structure on the nonconforming lot.

We would recommend some restructuring of the proposal. As it now stands, the proposal could be interpreted to mean that a structure can be built on a nonconforming lot *one way or the other*. We suggest that the proposal contain language to the effect that some substandard lots may be unbuildable.

VIII. Filling, Grading, Lagooning, Dredging, Ditching and Excavating

Rip rap is a common alteration to the shoreline. It should be considered in this section.

The retaining wall provision is a little troublesome. As it stands, the proposal to allow retaining walls for erosion control is unacceptable. The language of the proposal implies that the decision that a retaining wall is required for a particular property is left to the property owner. We would like to see retaining walls be subject to administrative review and permitting by the state or the county.

IX. Impervious Surface Provisions

The recognition that impervious surfaces are important in the control of water quality is a significant improvement in NR115, and we applaud the DNR for including it in the proposals.

We support **Proposal A** for **Impervious Surface Provisions**. We would recommend better and more detailed definitions and explanations of *Best Management Practices* and *post-construction runoff* in the final version of NR115

X. Mitigation Provisions

We support the mitigation measures and requiring proportionality of mitigation with the proposed property improvements. We think it appropriate that the details of those measures are left with the permitting agency and/or County Conservation department. Credit given for good shoreland stewardship and existing mitigation measures is supported by LLPA.

XI. Agriculture

XII. Forestry

We support the Forestry proposals. It is our understanding that the Forestry Best Management Practices are more restrictive than comparable NR115 shoreland restrictions; the shorelands should be well protected.

XIII. Recreational Areas Including Campgrounds, Public Access Sites and Marinas

The LLPA is pleased to see that campgrounds and other public access sites are to be covered under the revised NR115. We strongly support these efforts. The experience in the Northwoods is that campgrounds quite often become locations for people to setup RVs, park models, or similar camping units on a permanent basis. We oppose campgrounds with “permanent” residents; the restrictions in a revised NR115 should emphasize that campgrounds are for traditional, limited stay camping.

We support **Proposal A**—camping units are limited to a 30-day stay.

We support the proposals for **Public Access Sites** and for **Marinas**. Often, all sorts of accessory structures are located in the primary and secondary buffers in association with public access sites and marinas. We support the effort to regulate these structures and recommend that accessory structures be prohibited in the setback buffers. We are particularly pleased to see that large fuel storage tanks are not to be allowed in the primary and secondary buffers.

Enforcement of the restrictions on these high-density, high-activity areas is a concern to us.

XIV. Sanitary Regulations

We agree with the statement that sanitary regulations are adequately covered by other portions of the Administrative Code and need not be included in NR115.

Back Lot Access—Key holing:

There is one aspect of shoreland management that appears to have been either overlooked or dismissed as unimportant in the revision process. That aspect concerns deeded back lot access to the waters, what is often called “key holing”. It is our opinion that the use of waterfront lots to provide deeded access to back lots (non waterfront lots) poses a significant threat to the public waters. If not carefully regulated, a large development of many dwellings in the off-waterfront tier of the shoreland zone could be allowed water access through a small waterfront parcel. The result could be an extremely high-use, high-activity waterfront parcel with serious environmental impacts. It may be that the Conservation Development approach was intended to include this potentiality, but we think it inappropriate in that section. In our opinion, deeded access should be a separate section of the revised NR115 that clearly and explicitly prohibits “key holing”. We would suggest that the minimum frontage of the waterfront parcel providing deeded water access to back lot owners be equivalent to the sum of the minimum frontages for each of the single family dwellings of the owners holding a deeded interest in the water access parcel.

Respectfully submitted,

David H. Haessig, President
Long Lake Preservation Association



a program of the



Sigurd Olson
Environmental Institute

NORTHLAND COLLEGE

Comments on the proposed revisions to NR 115

Thank you for the opportunity to comment on the proposed revisions to NR 115. My name is _____ and I am speaking on behalf of the LoonWatch program of the Sigurd Olson Environmental Institute of Northland College and the program's advisory council. We strongly support the state of Wisconsin strengthening its shoreline zoning standards to reduce the intensity of development along the state's lakeshores and to guide appropriate shoreline development.

The LoonWatch program works through education, monitoring and research to protect Common Loons and their aquatic habitats in Wisconsin and the greater Lake Superior region. We represent a diverse group of citizens, including 200 active volunteers and 550 supporting donors, who support the preservation and restoration of healthy loon populations.

Shoreline development has been identified as one of the major threats to long-term Common Loon reproduction because it impacts the very things loons need in a breeding territory: shoreline nest sites, food, and clear, unpolluted water. In the past century, increasing shoreline development on lakes and the resulting loss of habitat and water quality have contributed to the elimination of loon nesting in the southern portions of Wisconsin, Minnesota, and Michigan, and in northern Illinois and Iowa (Daulton 1997). Research indicates that current statewide shoreline zoning standards are not adequate to ensure long-term loon nesting success in their remaining breeding habitat in northern Wisconsin. Development density allowed under existing NR 115 standards is much greater than the density found to impact loon nesting success in Ontario (Vermeer 1973, Heimberger 1983). Though loons can adapt to some human disturbance associated with development, their specific habitat requirements and their position at the top of the food chain make them vulnerable to human activity.

LoonWatch and the DNR conducted the Inland Lake Sustainability Study (ILSS) in the late 1990s to investigate the impacts of lakeshore development and found that current development standards were not adequate to protect shoreline habitat. LoonWatch and the DNR documented changes in vegetation at lakes developed under the current NR 115 standards relative to undeveloped lakes. Vegetation cover in the tree, shrub, and ground levels along the shoreline, as well as in the shallow water, was reduced at developed sites. Alteration of vegetation and the near elimination of dead and downed wood along the shore simplify the habitat, contributing to reduced diversity of fish and wildlife species. The study found that lakes fully developed under the current zoning standards would have dramatically altered breeding bird populations and elimination of green frogs and their habitats. The degradation of wildlife habitat is primarily a result of many small cumulative impacts on properties around a lake.

To reduce the intensity of impacts from development, LoonWatch strongly supports the proposed revisions that increase the primary buffer zone and reduce the density of development along Wisconsin lakeshores, particularly within the buffer areas including:

- 50 foot primary buffer and 25 foot secondary buffer (Section I).
- One viewing access corridor per property not to exceed 30 feet (Section I).
- Boathouse setback of 75 feet from the OHWM (Section II).
- Clarification of standards for nonconforming structures (Section III).
- Minimum lot size of 20,000 square feet and minimum width of 100 feet for all new lots (Section IV). *Research indicates, however, that this minimum lot size is still not adequate to protect fish and wildlife habitat and water quality.*

LoonWatch strongly supports the proposed revisions that guide appropriate development along Wisconsin lakeshores, particularly within the buffer areas including:

- The redefinition of primary buffer to include native shoreland vegetation and the clarification of vegetation cutting standards within the buffer (Section I). *Because of the importance of dead and downed woody debris as wildlife habitat, its removal should be prohibited unless it poses an imminent safety hazard or is excessive due to high wind damage.*
- Minimum buildable area of 5,000 square feet of land not in wetland or floodway (Section IV).
- Maximum area of impervious surface, 2,500 square feet or 20% of the lot area (Section IX). *We do not support the exemption for property owners using BMPs because impacts of impervious surfaces on water quality go far beyond construction run-off.*
- Addition of standards for uses such as multifamily homes (Section V), campgrounds (Section XIII), and conservation development (Section VI).
- Inclusion of a well defined mitigation provision (Section X).

We recognize that in revising the state's shoreline zoning standards, the DNR needs to balance environmental, social and economic interests in order for the standards to be effective and sustainable. Shoreline Zoning standards preserve fish and wildlife habitat, water quality and natural beauty – the very amenities that attract visitors to Wisconsin and increase lakeshore property values. We believe strengthening NR 115 will enhance the long-term health of the local economy, provide citizens with high quality lake experiences, and help maintain healthy lake ecosystems and Common Loon populations.

Thank you.